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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON
PENDLETON DIVISION

OREGON FIREARMS FEDERATION,)
INC., et al.,)
Plaintiffs,) Civil No.
v.) 2:22-cv-01815-IM
TINA KOTEK, et al.,) (Lead Case)
Defendants.)
(Continued)) Civil No.
) 3:22-cv-01859-IM
) (Trailing Case)
) Civil No.
) 3:22-cv-01862-IM
) (Trailing Case)
) Civil No.
) 3:22-cv-01869-IM
) (Trailing Case)
)

* VIDEOCONFERENCE *

DEPOSITION UPON ORAL EXAMINATION

OF EXPERT

BRENNAN N. RIVAS

Witness located in:
Fort Worth, Texas

* All participants appeared via videoconference *

DATE TAKEN: March 22, 2023
REPORTED BY: Tia B. Reidt, Washington RPR, CCR 2798
Oregon # 22-0001

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1 _____
2 (continued))
3 MARK FITZ, et al.,)
4 Plaintiffs,)
5 v.)
6 ELLEN F. ROSENBLUM, et al.,)
7 Defendants.)
8 _____
9 KATERINA B. EYRE, et al.,)
10 Plaintiffs,)
11 v.)
12 ELLEN F. ROSENBLUM, et al.,)
13 Defendants.)
14 _____
15 DANIEL AZZOPARDI, et al.,)
16 Plaintiffs,)
17 v.)
18 ELLEN F. ROSENBLUM, et al.,)
19 Defendants.)
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1 or someplace else?

2 A. Yeah. And especially the HeinOnline, yeah.

3 Q. Okay.

4 And you also mentioned the Cody Museum.

5 Did you do some work there?

6 A. I did, yes.

7 Q. And when was that?

8 A. In October 2022.

9 Q. Earlier in your testimony, you mentioned -- I
10 think you said you would have liked the curator let you
11 take a closer look at some of the stuff. Is that the
12 museum you're talking about?

13 A. Well, one of them. I mean, I've been to --
14 I've been to several museums that have collections of
15 historic firearms, and it would be great to get an
16 all-access tour like that, where they could show you
17 some of the functionality of the gun. Not necessarily
18 fire it, but at least be able to, you know, sort of
19 take you through how the mechanisms worked. That would
20 be great.

21 Q. What research did you do at the Cody Museum in
22 October?

23 A. I was looking at the history and development
24 of mostly the lever-action rifles, especially looking
25 at the Winchester collections.

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1 Q. And approximately how much time did you spend
2 there researching?

3 A. I was there for one full workweek, and I spent
4 most of every day there in the archives looking at
5 various resources. So I would say about 25 or 30 hours
6 at the archive.

7 Q. Okay.

8 Did you interact with any of the curators
9 there?

10 A. I did not interact with curators. I did
11 interact with the librarians and archivists at the
12 McCracken Research Library.

13 Q. Okay.

14 The other resource material you cited to was
15 Gun Digest. Can you tell me a little bit more about
16 using that as a researching tool?

17 A. Yes. I bought online a CD collection of
18 digitized issues of Gun Digest. It runs from the
19 beginning in the 1940s up through pretty recently,
20 through at least, like, 2015 or something like that.
21 And so I have those, and I've looked at -- I've looked
22 at some of the older issues of Gun Digest.

23 Q. And why is that a particular useful resource?

24 A. Well, number one, it was a great way to -- it
25 was a great resource in that you can get a lot of

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1 material in one place that's fairly easy to go through,
2 you know? So you've got decades and decades of Gun
3 Digest all in one place at your computer, and it was
4 useful for that.

5 But also, Gun Digest is really useful for
6 seeing what kinds of weapons were available and how
7 they're being described, things of that nature. And so
8 I used it for that purpose.

9 Q. Do you find it to be an accurate resource?

10 A. Insofar as -- insofar as it's a catalog of
11 what is available, I would say yes. I don't have any
12 reason to think that it was -- that it was wildly
13 inaccurate.

14 Q. I wasn't trying to imply that. I'm just
15 trying to gauge your -- your trust of the resource.
16 That's all.

17 A. Well, like I said, for the purpose I used it
18 for, which was sort of to scan through what kinds of
19 guns are they advertising in it and what is -- what
20 does that catalog show to be available. That's what I
21 used it for. Not so much reading the articles or
22 anything like that.

23 Q. If you relied on any of the articles in the
24 Gun Digest, would you consider that a primary or
25 secondary source?

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1 A. Well, it would depend on -- it would depend on
2 what the article was about. If the article was about,
3 you know, the history of flintlock muskets, then that
4 would be a secondary source. But if it's an article
5 about here is this new model of rifle that just came
6 out, I would consider that a primary source about that
7 item.

8 Q. Okay.

9 So if you could turn to your declaration
10 again, Exhibit 8, and I'm looking at the top of page 5.

11 A. Okay.

12 Q. And the specific language I'm looking at is
13 "America has a long tradition of regulating weapons
14 considered especially dangerous."

15 Is there a definition in your own mind of what
16 is -- what you refer to here as "especially dangerous"?

17 A. Well, for the context of the 19th century,
18 yes. They generally called those "deadly weapons" and
19 regulated them in various ways. Yeah.

20 Q. So when you just described that, you mean
21 dangerous and unusual as the Supreme Court uses that
22 term? Or how do you understand that term to be?

23 A. I -- I would be hesitant to say that I'm
24 aligning everything I'm saying with how the Supreme
25 Court uses the phrases. I'm speaking as a historian.

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1 But based on my own research, Americans of the 19th
2 century did consider some weapons to be especially
3 dangerous to the peace and safety of communities, and
4 they generally grouped them together and called them
5 "deadly weapons" and regulated them.

6 Q. So would you use the phrasing interchangeably,
7 "especially dangerous" equals "dangerous and unusual"?

8 A. I'm honestly not sure.

9 Q. Okay. That's fair.

10 Is it possible that over time something that
11 fits in the category, in your own mind, "especially
12 dangerous" or considered "especially dangerous" by a
13 community moves to a different category, that it's not,
14 and it's not regulated?

15 A. What's the time frame we're thinking of here?
16 Do you have a time frame here to which you're limiting
17 that?

18 Q. Sure.

19 So in some of the references here there was --
20 you make some note of pistols, especially, I think, one
21 of them was either described as a horse pistol or a
22 long pistol, and the states regulating such items.

23 So juxtapose that with now in the modern era
24 under Heller, the Supreme Court saying that pistols
25 might have been considered dangerous and unusual then,

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1 but they're not now, and that they're considered a
2 quintessential self-defense item.

3 So my curiosity is:

4 How do you go from it being dangerous and
5 regulated to now it's not, and it's the quintessential
6 example of self-defense? So...

7 A. That's a question I probably would like to
8 know the answer to myself.

9 But as a historian and with Americans' general
10 attitudes towards handguns, especially in the 19th
11 century, which is what my research focuses on, they did
12 consider them to be associated with criminal activity.

13 Even today, you know, handguns are involved in more
14 crimes and more deaths than any kind of firearm; right?
15 So I don't -- I don't know that they're any less
16 dangerous than they used to be. It's just social -- I
17 guess social attitudes and especially legal
18 interpretation of that has changed.

19 Q. Well, and that's in part what a historian
20 does; correct? They look at snapshots and times and
21 try to discover those things?

22 A. Yeah.

23 Q. Okay.

24 Would it also be fair to say that any -- any
25 weapon that could be used like a knife or a hatchet or

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C E R T I F I C A T E

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3 STATE OF WASHINGTON

4 COUNTY OF PIERCE

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6 I, Tia Reidt, a Certified Court Reporter in and
7 for the State of Washington, do hereby certify that the
8 foregoing transcript of the deposition of BRENNAN N.
9 RIVAS, having been duly sworn, on March 21, 2023, is
10 true and accurate to the best of my knowledge, skill and
11 ability. Reading and signing was requested pursuant to
12 FRCP Rule 30(e).

13 IN WITNESS WHEREOF, I have hereunto set my hand
14 and seal this 27th day of March, 2023.

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/S/ Tia B. Reidt
Tia B. Reidt, RPR, CCR # 22-0001
NOTARY PUBLIC, State of
Washington.
My commission expires
5/15/2026.

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